

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7932**

**BILL NUMBER: SB 586**

**NOTE PREPARED: Jan 14, 2005**

**BILL AMENDED:**

**SUBJECT:** Noneconomic Damage Awards.

**FIRST AUTHOR:** Sen. Merritt

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It provides that for an individual to be awarded noneconomic damages, the individual must establish the facts that are relied upon by clear and convincing evidence.
- B. It requires a trier of fact to use a verdict form that separates noneconomic damages from other damages that the individual claims. It provides that a trier of fact shall not consider certain factors in awarding noneconomic damages.
- C. It provides that a court shall review an award for noneconomic damages to determine whether a noneconomic damages award is excessive. It provides that an appellate court shall use a *de novo* standard of review in reviewing the record of the lower court in an appeal of a noneconomic damages award.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Provision A* – This provision potentially reduces tort claim payments. This bill would increase the standard of proof that plaintiffs would need to demonstrate when filing a tort claim against either the state or a political subdivision because of a personal injury. The Office of the Attorney General reports the amount of damages paid as a result of all tort claims submitted and tort claim lawsuits filed against the state and by plaintiffs in tort and civil rights litigation between CY 2000 and CY 2004 as follows:

<u>FY</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Damages Paid	\$8,198,937	\$6,611,210	\$3,312,183	\$5,573,483	\$4,735,016

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and settlements paid as a result of a court order. It also includes cases in both federal and state court.

*Costs of Review* - There could be added costs to the Court of Appeals to review these cases. Under current law, the court of appeals has the authority to review cases as prescribed by its own promulgated rules. If a trial *de novo* review would extend the time of reviewing the case, then this bill would add to the workload of the courts.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Provision A* – See *Explanation of State Expenditures* regarding reduced costs for tort payments.

*Costs of Review* - There may also be added costs to the trial court to review these cases. Under current law, parties to the case would appeal the case at the appellate level.

*Background Information:*

Tort Filings in Indiana Courts of Record, 1994 through 2003									
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
14,002	12,784	12,849	12,716	12,144	12,336	12,588	12,169	12,795	11,874

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Court of Appeals.

**Local Agencies Affected:** Trial Courts; Political subdivisions.

**Information Sources:** *2003 Indiana Judicial Report*.

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